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**DISTRICT II**

March 22, 2017

To:

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Manitowoc County Courthouse  
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Oshkosh, WI 54903-3310

You are hereby notified that the Court has entered the following opinion and order:

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2016AP932-CRNM      State of Wisconsin v. Dustin A. Mills (L.C. # 2014CF323)

Before Neubauer, C.J., Gundrum and Hagedorn, JJ.

Dustin A. Mills appeals from a judgment of conviction for causing a child to view sexual activity, as a repeat offender. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16),<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Mills filed a response to the no-merit report and counsel then filed a supplemental no-merit report. RULE 809.32(1)(e), (f). Upon consideration of these submissions and an independent review of the

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

record, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* RULE WIS. STAT 809.21.

Mills was charged as a repeat offender with child enticement and causing a child to view sexual activity. The complaint alleged that in June 2014, Mills, while confined at the Manitowoc County jail, exposed his erect penis to a seventeen-year-old jail inmate and had the same inmate watch Mills masturbate. Mills entered a guilty plea to causing a child to view sexual activity and the other charge was dismissed as a read-in at sentencing. Mills was sentenced to three years' incarceration to be served concurrently with a prior longer sentence.<sup>2</sup>

The no-merit report addresses the potential issues of whether Mills' plea was freely, voluntarily, and knowingly entered, whether the sentence was the result of an erroneous exercise of discretion, and whether Mills was denied the effective assistance of counsel with respect to the entry of the plea and sentencing. Our review of the record persuades us that no issue of arguable merit exists. The record shows that the circuit court engaged in an appropriate colloquy and made the necessary advisements and findings required by WIS. STAT. § 971.08(1), *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986), and *State v. Hampton*, 2004 WI 107, ¶38, 274 Wis. 2d 379, 683 N.W.2d 14. Additionally, the circuit court properly relied upon Mills' signed plea questionnaire to ascertain Mills' understanding and knowledge at the time the plea was taken. *State v. Hoppe*, 2009 WI 41, ¶¶30-32, 317 Wis. 2d 161, 765 N.W.2d 794. Mills acknowledged that he had gone over the questionnaire with his attorney and understood the

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<sup>2</sup> The judgment of conviction includes a \$250 DNA surcharge which was a mandatory assessment when Mills committed the 2014 crime. *See* WIS. STAT. § 973.046(1r). Mills' contention that the surcharge should not have been assessed lacks merit.

information it contained. Further, the sentence was based on appropriate facts of record and considerations and cannot be deemed excessive. We also agree with counsel's assessment that as to the plea and sentencing, Mills was not denied the effective assistance of counsel.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the conviction and discharges appellate counsel of the obligation to represent Mills further in this appeal.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Mark A. Schoenfeldt is relieved from further representing Dustin A. Mills in this appeal. *See* WIS. STAT. RULE 809.32(3).

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*